

### **IC 14-32-6.5**

#### **Chapter 6.5. Changing the Boundaries of a District or Dissolving a District**

### **IC 14-32-6.5-1**

#### **Petitions to change boundaries or dissolve districts**

Sec. 1. (a) Land occupiers of a district may file a petition with the board requesting either of the following:

(1) That the boundaries of the district be changed to encompass territory described in the petition.

(2) That the district cease to operate and be dissolved.

(b) A petition filed under this section must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the boundaries of the district referred to in the petition.

*As added by P.L.136-1997, SEC.35.*

### **IC 14-32-6.5-2**

#### **Petition to change boundaries; conditions**

Sec. 2. In the case of a petition filed under section 1(a)(1) of this chapter to change the boundaries of a district, the following conditions apply:

(1) The territory proposed for inclusion in the reconfigured district may consist of two (2) or more separate tracts, and the tracts need not be contiguous.

(2) The petition must include a generally accurate description of the territory proposed for inclusion in the reconfigured district, but the territory need not be defined by metes and bounds or by legal subdivisions.

*As added by P.L.136-1997, SEC.35.*

### **IC 14-32-6.5-3**

#### **Petition to change boundaries; requirements of territory proposed for inclusion**

Sec. 3. (a) If:

(1) a petition is filed under section 1(a)(1) of this chapter to change the boundaries of a district; and

(2) the territory proposed for inclusion in the reconfigured district includes all or part of the territory of one (1) or more existing districts;

the petition must meet the requirement set forth in subsection (b), subsection (c), or subsection (d).

(b) If the territory proposed for inclusion includes only a portion of the existing district, a petition described in subsection (a) must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the territory, except as provided in subsection (d).

(c) If the territory proposed for inclusion includes all or part of two (2) or more existing districts, the petition must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the part of each existing district that is proposed for inclusion,

except as provided in subsection (d).

(d) If there are fewer than fifty (50) land occupiers whose tracts of land are located in:

(1) a territory referred to in subsection (b); or

(2) a part of a district referred to in subsection (c);

the petition must be signed by a majority of the land occupiers whose tracts of land are located within the territory or part of a district.

(e) The signature requirements of this section are in addition to the signature requirement imposed by section 1(b) of this chapter.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-4**

##### **Petition to change boundaries; joint resolution of districts required**

Sec. 4. (a) If:

(1) a petition is filed under section 1(a)(1) of this chapter to change the boundaries of a district; and

(2) the territory proposed for inclusion in the reconfigured district includes all or part of the territory of one (1) or more other existing districts;

the petition must be accompanied by a copy of a joint resolution described in subsection (b).

(b) The resolution required by this section must be adopted by the supervisors and certified by the secretary of:

(1) the district into which the territory proposed for inclusion would be incorporated; and

(2) each district whose territory would be incorporated into the district referred to in subdivision (1).

(c) The resolution required by this section must set forth:

(1) the amount of the assets and obligations that would be transferred to the district referred to in subsection (b)(1) by each district referred to in subsection (b)(2) as part of the incorporation of territory; and

(2) the amount of the assets and obligations of the district referred to in subsection (b)(1) that would be retained by the district after the incorporation of territory.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-5**

##### **Petitions to change boundaries or dissolve districts; invalidity**

Sec. 5. If a petition filed under section 1 of this chapter does not meet the requirements set forth in sections 1 through 4 of this chapter, the board shall:

(1) declare the petition invalid;

(2) in writing, inform the person who filed the petition that the petition is invalid, specifying the reason or reasons for the invalidity of the petition; and

(3) return the petition to the person who filed it for the incorporation of corrections to remedy the invalidity.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-6**

##### **Petitions to change boundaries or dissolve districts; hearing**

Sec. 6. (a) If a petition filed under section 1 of this chapter meets the requirements set forth in sections 1 through 4 of this chapter, the board shall do the following:

- (1) Not more than sixty (60) days after the filing of the petition, give due notice that a hearing will be held concerning the petition.
- (2) Pay all expenses arising from the issuance of the notice and the holding of the hearing.
- (3) Conduct the hearing.

(b) The hearing held on the petition shall be open to the public.

The following may testify at the hearing:

- (1) A land occupier whose tract of land is located within the district or territory referred to in the petition.
- (2) An individual of voting age who resides within the district or territory referred to in the petition.

(c) Testimony may be presented at the hearing concerning:

- (1) the desirability and necessity, in the interest of the public welfare, of granting the petition;
- (2) the validity of:
  - (A) the petition; and
  - (B) proceedings conducted on the petition under this chapter; and
- (3) all questions relevant to the petition.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-7**

##### **Petitions to change boundaries or dissolve districts; considerations**

Sec. 7. (a) When considering a petition to change the boundaries of a district, the board shall consider and give due weight to the following:

- (1) The information presented at the hearing held under section 6 of this chapter.
- (2) The attitudes toward the change in district boundaries expressed by land occupiers whose tracts of land are located within the territory proposed for inclusion within the district.
- (3) The desirability and necessity of including the territory within the district, including the benefits that the land occupiers whose tracts of land are located within the territory may receive from the inclusion.
- (4) The relation of the territory to:
  - (A) watersheds;
  - (B) agricultural regions; and
  - (C) other districts.
- (5) The physical, geographical, and economic factors that are relevant, having regard to the legislative determination set forth in IC 14-32-1.

(b) When considering a petition to dissolve a district, the board shall consider and give due weight to the following:

- (1) The information presented at the hearing held under section 6 of this chapter.
- (2) The attitudes toward dissolution of the district expressed by land occupiers whose tracts of land are located within the district.
- (3) The approximate wealth and income of the residents of the district.
- (4) The probable expense of carrying on soil and water resource protection activities within the district.
- (5) Other economic and social factors that are relevant, having regard to the legislative determination set forth in IC 14-32-1.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-8**

##### **Denial of petition**

Sec. 8. Not more than sixty (60) days after a public hearing on a petition is held under section 6 of this chapter, the board shall determine whether the petition should be denied.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-9**

##### **Denial of petition; record of determination; notice**

Sec. 9. If, after the hearing and consideration of the factors set forth in section 7 of this chapter, the board determines that a petition should be denied, the board shall, when appropriate, do the following:

- (1) Record the determination.
- (2) Deny the petition.
- (3) Notify a representative of the petitioners in writing that the petition is denied.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-10**

##### **Petitions to change boundaries or dissolve districts; procedures if not denied**

Sec. 10. (a) If, after the hearing and consideration of the factors set forth in section 7(a) of this chapter, the board determines that a petition to change the boundaries of a district should not be denied, the board shall, when appropriate, do the following:

- (1) Record the determination.
- (2) Define, by metes and bounds or by legal subdivisions, the territory to be included in the proposed reconfigured district.
- (3) In consultation with the petitioners, establish a name for the proposed reconfigured district.
- (4) Not more than sixty (60) days after recording the determination, give due notice that an election, by secret ballot, will be held on the local public question set forth in the petition.
- (5) Prescribe appropriate procedures for the conduct of the election and the determination of the eligibility of voters.
- (6) Supervise the conduct of the election.

(7) Publish the results of the election.

(8) Pay all expenses arising from the issuance of notices and the holding of the election.

(b) If, after the hearing and consideration of the factors set forth in section 7(b) of this chapter, the board determines that a petition to dissolve a district should not be denied, the board shall, when appropriate, do the following:

(1) Record the determination.

(2) Not more than sixty (60) days after recording the determination, give due notice that an election, by secret ballot, will be held on the local public question set forth in the petition.

(3) Prescribe appropriate procedures for the conduct of the election and the determination of the eligibility of voters.

(4) Supervise the conduct of the election.

(5) Publish the results of the election.

(6) Pay all expenses arising from the issuance of notices and the holding of the election.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-11**

##### **Elections to change boundaries or dissolve districts; contents of ballots**

Sec. 11. (a) The ballot provided for an election on whether to change the boundaries of a district must contain the following:

(1) A definition, by metes and bounds or by legal subdivisions, of the territory within the proposed reconfigured district.

(2) Two (2) propositions, one (1) of which reads "For creation of the (insert name) soil and water conservation district comprising the territory defined here" and the other of which reads "Against creation of the (insert name) soil and water conservation district comprising the territory defined here".

(3) A square in front of each proposition.

(4) Instruction to insert an X mark in the square before only one (1) of the propositions to indicate that the voter favors or opposes the inclusion of the described territory within the district.

(b) The ballot provided for an election on whether to dissolve a district must contain the following:

(1) Two (2) propositions, one (1) of which reads "For terminating the existence of the (insert name) soil and water conservation district" and the other of which reads "Against terminating the existence of the (insert name) soil and water conservation district".

(2) A square in front of each proposition.

(3) Instruction to insert an X mark in the square before only one (1) of the propositions to indicate that the voter favors or opposes the dissolution of the district.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-12**

**Elections to change boundaries or dissolve districts; voting**

Sec. 12. (a) All land occupiers whose tracts of land are located within:

- (1) the boundaries of the district as they would be changed to encompass the territory proposed for inclusion; or
- (2) the district proposed for dissolution;

are eligible to vote in the election on the local public question held under section 10(a) or 10(b) of this chapter.

(b) A voting place used in the election must be arranged so that the voter can mark a ballot without disclosing to any person how the ballot was marked.

(c) An informality in the conduct of the election on the local public question or in a matter relating to the election does not invalidate the election or the result of the election if:

- (1) due notice of the election was given substantially as required by section 10 of this chapter and IC 14-8-2-80; and
- (2) the election was conducted fairly.

*As added by P.L.136-1997, SEC.35.*

**IC 14-32-6.5-13**

**Elections to change boundaries or dissolve districts; simple majority required to deny**

Sec. 13. If at least a simple majority of the votes cast on the local public question are against the request set forth in the petition, the board shall, when appropriate, do the following:

- (1) Certify the results of the election in the records of the board.
- (2) Declare the request set forth in the petition denied.

*As added by P.L.136-1997, SEC.35.*

**IC 14-32-6.5-14**

**Elections to change boundaries or dissolve districts; simple majority required to implement request**

Sec. 14. (a) In an election on the local public question of whether to change the boundaries of a district, the board shall proceed under subsection (c) if at least a simple majority:

- (1) of all the votes cast; and
- (2) of the votes cast in each:
  - (A) district; or
  - (B) portion of a district;

that would be included within the proposed reconfigured district;

are in favor of the inclusion of the described territory within the district.

(b) In an election on the local public question of whether to dissolve a district, the board shall proceed under subsection (c) if at least a simple majority of the votes cast on the local public question are in favor of the dissolution of the district.

(c) Under the circumstances set forth in subsection (a) or (b), the board shall do the following:

- (1) Certify the results of the election in the records of the board.

- (2) Implement the request set forth in the petition under:
  - (A) sections 15 through 21 of this chapter, if changing the boundaries of a district; or
  - (B) sections 22 through 23 of this chapter, if dissolving a district.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-15**

##### **Appointed supervisors; terms**

Sec. 15. (a) To incorporate the described territory within the district, the board shall do the following not more than thirty (30) days after certifying the election:

- (1) Appoint two (2) individuals who meet the qualifications set forth in IC 14-32-4-1(c) as supervisors of the district.
- (2) Establish the length of the terms of the appointed supervisors within the limits set forth in subsection (b).
- (b) The term of one (1) supervisor appointed under subsection (a) may not be more than three (3) years. The term of the other supervisor appointed under subsection (a) may not be more than two (2) years.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-16**

##### **Letter of application; presentation to secretary of state; contents**

Sec. 16. (a) Not more than thirty (30) days after being appointed under section 15(a) of this chapter, the two (2) appointed supervisors shall present to the secretary of state the following:

- (1) A notarized letter of application, signed by the two (2) appointed supervisors, for reorganization of the district as a governmental subdivision and a public body corporate and politic under this article.
- (2) A copy of the original petition filed with the board.
- (3) A copy of the certification by the board of the results of the election held on the local public question.
- (4) A copy of the records of appointment by the board of the two (2) supervisors who signed the letter of application.
- (b) The letter of application presented under subsection (a) must include the following:
  - (1) The name proposed for the district.
  - (2) A definition, by metes and bounds or by legal subdivisions, of the reconfigured boundaries of the district.
  - (3) A statement certifying that, upon notification by the secretary of state of the approval of the application, an existing district lying entirely within the boundaries of the newly reorganized district will terminate operation and cease to exist.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-17**

##### **Certificate of organization**

Sec. 17. (a) After receiving, examining, and approving a letter of

application and the accompanying documents that are presented under section 16 of this chapter, the secretary of state shall do the following:

- (1) Issue to the appointed supervisors a certificate of organization indicating that the district is reestablished with boundaries incorporating the territory defined in the notarized letter of application presented under section 16 of this chapter.
- (2) Record the certificate of organization with the letter of application and accompanying documents in an appropriate record.
- (3) Issue to the supervisors of any existing district lying entirely within the boundaries of the newly reestablished district a certificate of dissolution of the existing district.
- (4) Record the certificate of dissolution in an appropriate record.

(b) On the date the secretary of state issues the certificates required by subsection (a):

- (1) all property and responsibilities of any existing district lying entirely within the boundaries of the newly reestablished district are assumed by the reestablished district; and
- (2) any existing district lying entirely within the boundaries of the newly reestablished district ceases to exist.

*As added by P.L.136-1997, SEC.35.*

## **IC 14-32-6.5-18**

### **Elected supervisors; petitions for nomination**

Sec. 18. (a) After the secretary of state issues a certificate of organization to the supervisors of a newly reestablished district under section 17 of this chapter, the board shall, when appropriate, circulate petitions for the nomination of candidates for the three (3) elected supervisor positions of the reestablished district. The petitions must be filed with the board not more than sixty (60) days after the secretary of state issues the certificate of organization. However, the board may extend the time within which the petitions may be filed.

(b) To be valid, a nominating petition must meet the following conditions:

- (1) The candidate named on the petition must meet the qualifications for elected supervisors set forth in IC 14-32-4-1(b).
- (2) The petition must be signed by at least twenty-five (25) land occupiers whose tracts of land are located within the district.

(c) A land occupier may sign more than one (1) petition to nominate more than one (1) candidate.

(d) Not more than thirty (30) days after receiving at least four (4) valid nominating petitions, the board shall do the following:

- (1) Give due notice that an election, by secret ballot, will be held to elect the three (3) supervisors of the newly reestablished district.
- (2) Prescribe appropriate procedures for the conduct of the



- election and the determination of the eligibility of voters.
- (3) Supervise the conduct of the election.
- (4) Publish the results of the election.
- (5) Pay all expenses arising from the issuance of notices and the holding of the election.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-19**

##### **Election of supervisors; contents of ballots**

Sec. 19. (a) The ballot provided for the initial election of supervisors of a newly reestablished district must contain the following:

- (1) The names, in alphabetical order of the surnames, of all the nominees on behalf of whom valid nominating petitions have been filed.
- (2) A square in front of each name.
- (3) Instruction to insert an X mark in the square before any three (3) of the names to indicate the voter's preference.

(b) A land occupier whose tract of land is located within the newly reestablished district is eligible to vote in the election.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-20**

##### **Elected supervisors; terms**

Sec. 20. (a) The three (3) candidates who receive the largest number of votes cast in the initial election of supervisors of a newly reestablished district are elected.

(b) The terms of office of the elected supervisors are as follows:

- (1) The individual receiving the highest number of votes has a three (3) year term of office.
- (2) The individual receiving the second highest number of votes has a two (2) year term of office.
- (3) The individual receiving the third highest number of votes has a (1) year term of office.

(c) If a tie vote occurs among the three individuals elected as supervisors, the terms of office for those receiving the same number of votes shall be decided by lot.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-21**

##### **Elected supervisors; oath of office; commencement of term**

Sec. 21. (a) The five (5) initial supervisors of a newly reestablished district shall assume the duties of office upon taking and signing an oath of office. The oath shall be administered:

- (1) to the two (2) appointed supervisors at the date of their appointment by the board; and
- (2) to the three (3) elected supervisors within one (1) week after publication by the board of the results of the election.

(b) An appointed supervisor holding office when a district is reestablished under sections 15 through 21 of this chapter is

discharged from office when the initial appointed supervisors of the reestablished district assume the duties of office under subsection (a). An elected supervisor holding office when a district is reestablished under sections 15 through 21 of this chapter is discharged from office when the initial elected supervisors of the reestablished district assume the duties of office under subsection (a).

(c) Although an initial supervisor assumes the duties of office at the time set forth in subsection (a), the term of office of the supervisor does not begin until the conclusion of the first annual meeting of the newly reestablished district for purposes of determining the expiration of the supervisor's term of office.

*As added by P.L.136-1997, SEC.35.*

### **IC 14-32-6.5-22**

#### **Dissolution; procedures; certificate**

Sec. 22. (a) To proceed with the dissolution of a district under section 14(b) of this chapter in accordance with the results of an election, the supervisors of the district, upon notification of the results of the election, shall do the following:

- (1) Begin immediately to terminate the affairs of the district.
- (2) Dispose of all property belonging to the district at public auction and pay over the proceeds of the sale into the state treasury.

(3) File with the secretary of state a notarized letter of application for dissolution of the district that:

(A) recites that the property of the district has been disposed of and the proceeds of the sale paid over as required by this section; and

(B) sets forth a full accounting of the property and proceeds of the sale.

(4) Transmit with the letter of application a copy of the certification by the board of the results of the election on the local public question of whether to dissolve the district.

(b) Upon receipt, examination, and approval of the letter of application and accompanying required document, the secretary of state shall do the following:

- (1) Issue to the supervisors a certificate of dissolution.
- (2) Record the certificate with the letter of application and accompanying required document in an appropriate record.

*As added by P.L.136-1997, SEC.35.*

### **IC 14-32-6.5-23**

#### **Dissolution; contracts remain in force**

Sec. 23. (a) Despite the issuance of a certificate of dissolution of a district under section 22 of this chapter, all contracts to which the district is a party remain in force and effect for the period provided in the contracts.

(b) The board:

- (1) is substituted for the district as party to the contracts;

(2) is entitled to all benefits and subject to all liabilities under the contracts; and

(3) has the same right and obligation under the contracts as the district would have had to:

(A) perform;

(B) require performance;

(C) sue and be sued; and

(D) modify or terminate the contracts by mutual consent or otherwise.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-24**

##### **Denial of petition for change in boundaries; delay before similar request considered**

Sec. 24. If a valid petition requesting a change in the boundaries of a district or the dissolution of a district has been denied due to:

(1) the determination of the board after a public hearing; or

(2) the results of an election held on the local public question; the board may not consider a later petition containing the same request or a similar request until two (2) years after the denial of the original petition.

*As added by P.L.136-1997, SEC.35.*

#### **IC 14-32-6.5-25**

##### **Procedures for organization of new district in same territory as dissolved district**

Sec. 25. If a district is dissolved under this chapter, the board may prescribe the procedure under which a new district may be organized within the territory encompassed by the dissolved district.

*As added by P.L.136-1997, SEC.35.*